

Doc. 9657  
FILED

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

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IN THE UNITED STATES DISTRICT COURT  
CLERK-SANTA FE  
DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, on the relation of	)	
The State Engineer,	)	No. 6:69-cv 07941-BB
	)	
Plaintiff,	)	Rio Chama Stream
	)	System
v.	)	
	)	Section I (mainstream)
ROMAN ARAGON, et al.,	)	
	)	
Defendants.	)	

We the *pro se* party(s): David Ortiz (Doc. No. 9591) (Doc. No. 9585),  
Eloy J. Garcia (Doc. No. 9590) (Doc. No. 9584),  
Tina C. Garcia (Doc. No. 9589) (Doc. No. 9583),  
Ron W. Rundstrom (Doc. No. 9592) (Doc. No. 9586),  
Jacobo Baca (Doc. No. 9588) (Doc. No. 9582),

are submitting a joint amended objection for Case # 6:69-cv-07941-BB, in response to  
Document 9546, filed 12/16/2009, Special Master's Report on Priorities for Three Acequias.

**AMENDED – OBJECTIONS TO THE ASSIGNMENT OF A 1600 PRIORITY DATE TO  
CONCERNED WATER RIGHTS OF THE PARCIENTES OF THE ACEQUIA DE  
CHAMITA (DOCUMENT 9546, FILED 12/16/2009)**

The parciente(s) on the Acequia de Chamita object to the Special Master's assignment of a 1600 priority date for the Acequia de Chamita only (p.10, V. Conclusions of Law 2., Case 6:69-cv-07941-BB, Document: 9546, Date filed December 16, 2009); and after providing evidence, respectfully motion that a change to adopt a priority date of August 11, 1598 for the parcientes(s) water right on/for the Acequia de Chamita (only).

The parciente(s), come without council, and are not Court Qualified Experts. We can only gather some evidence in a brief time (order to grant extension on Objection to Special Master's Report, Doc. 9603, filed February 23, 2010). With respect, we apologize for improper conduct, and ask that the court indulge us.

1. A brief background on reasons for the objections:

- A. Dr. Stanley Hordes made available a paper, on or around, August 21, 1992, titled, Historical Abstracts of Acequias Along the Lower Rio Chama, prepared for: Rio Chama Acequia Association, Medanales, New Mexico, dated August 21, 1992. The purpose of the report was to "...establish defensible dates" for 26 Acequias along the Rio Chama. For the Acequia de Chamita, he assigned the priority date of 1598 (p. 9, See Exhibit A). We accepted this report and starting date for this Acequia's history in good faith.
- B. Then, upon attending a Rio Chama Acequia Association meeting on Wednesday, December 2, 2009, at the Mendanales Community Center, for a status report on the legal proceedings concerning the Rio Chama Acequias. (Counsel for the RCAA, Fred Waltz, was not in attendance). Fred Vigil, President of the RCAA, was asked by the Acequia de

Chamita's Commissioner (David Ortiz) for the status of the 1598 priority date. The Commissioner said, "We will not accept anything less than August 11, 1598. Fred Vigil's response, "Neither will we".

- C. Then, while attending the meeting of the Northern New Mexico Stockmen's Association meeting in Taos, Sunday, January 10, 2010, guest speaker Ted Trujillo mentioned that three Acequias (Hernandez, Salazares, and Chamita) have been given a priority date of 1600. He said he got the date from Vickie. Gabin's Special Master's Report.
- D. Then, he sent a copy of the Special Master's Report, (Doc: 9546, filed December 16, 2009) to us on January 14, 2010. On reading the Special Master's Report, page 3, I, stipulated facts, #4, "In 1600 Spanish settlers moved to a new settlement"...San Gabriel". And at #5, "The Spanish settlers promptly established an irrigation system at San Gabriel..." This is the first parciente(s) understanding that a 1600 date had been agreed upon as stipulated fact, by Dr. Baxter and Dr. Hordes, and adopted by the Court (order, November 17, 1995, Doc. No. 4380).
- E. Then, the Commissioners of the Acequia de Chamita called a meeting at The Chamita Firehouse on Tuesday, January 26, 2010. Counsel Fred Waltz of the RCAA was present, along with the three commissioners, the Mayordomo, Fred Vigil of the RCAA and two parcientes. Counsel Fred Waltz presented a partial copy of Irrigation at the Confluence of the Rio Grande and Rio Chama: The Acequias de Chamita, Salazar, and Hernandez, 1600-1680, by Stanley M. Hordes, Ph.D., June 24, 1996: and

defendants Exhibit A, Order Adopting Stipulation (Doc. # 4380, November 17, 1995). Fred Waltz then urged the Commission to accept the 1600 priority date and the Special Master's Report.

- F. Then, a second Acequia de Chamita Commission meeting was called, Thursday, February 4, 2010. Counsel Fred Waltz and two commissioners were present. Any further comment would be hearsay.
- G. Then, the parcientes of the Acequia de Chamita filed the objections to the Objections to Assignment of a 1600 Priority Date To the Concerned Water Rights of the Parcientes of the Acequia de Chamita (Case 6:69-cv-0741-BB, Doc. #s 9588, 9589, 9590, 9591, 9592, 9593, filed February 16, 2010), along with a request for an extension (Doc. #s 9582, 9583, 9584, 9585, 9586, 9587, filed February 16, 2010) in time to file amended objections to the Special Master's Report.
- H. Then, the Court granted the motion for an extension of time to file amended objections to the Special Master's Report until March 31, 2010 (Doc. 9603, filed February 23, 2010).
- I. Then, on February 26, 2010, the parciente(s) received from the plaintiff, their Motion to Limit Consideration of Objections to Special Master's Report filed December 16, 2009 to Parties Subject to the Pretrial Order on Mainstream Priorities filed March 25, 1996 (Doc. 9606, filed 02/25/2010). It was noticed that on page 2, number 2 of the motion "The Acequia de Chamita, Hernandez and Los Salazares, by and through their counsel of record, Fred J. Waltz, filed their Motion to Adopt Special Master's Report

and Recommendations on Priorities for Three Acequias on January 7, 2010 (Doc. 9556).” The motion to adopt the Special Masters Report (Doc. 9556) had already been done, January 7, 2010, without the notification of the Acequia de Chamita, either through the Acequia Commissioners or its parcientes.

2. Now therefore, the parciente(s) objections to the Special Master’s Report (Doc. 9546, filed December 16, 2009) assignment of a 1600 water right priority date for the Acequia de Chamita only; and the presentation of findings of fact for the court to respectfully change the Special Master’s Report (Doc. 9546, filed December 16, 2009) for the Acequia de Chamita priority date to the earlier and proper date of August 11, 1598. Report at 10, recommendation No.2.

- A. A discussion of the Special Master’s Report findings of fact based on the stipulated facts agreed upon by Dr. Baxter and Dr. Hordes, and adopted by the Court (order November 17, 1995, Doc. No. 4380, and as defendants Exhibit A, Order Adopting Stipulation). In the Special Master’s Report the stipulated facts of interest are Nos. 3, 4, and 5. (page 3); and II Findings of Fact A. Documentary Evidence, No.1. (page 4). This is referenced with Baxter, Tr. Vol. 1 at 36, Hordes Report at 3. It seems the Special Master used the Hordes, Baxter references (II Finding of Fact, No.1, page 4), to establish her conclusion of law that, “The evidence supports a 1600 priority date for the Acequia de Chamita.” (V. No.2, pg.10).

Let's first look at the Baxter reference (Baxter, Tr. Vol. 1. at 3, pg.4). Page 3 of, John O. Baxter's Irrigation in the Chama Valley, states, "Sometime before Christmas 1600, they set up residence in the partially abandoned Pueblo of Yuque-Yunque, a name applied in Coronado's time to the whole Tewa region. Onate called the New location "San Gabriel", footnote 6 (Exhibit B). His footnote 6 is a reference to Florence Hawley Ellis; "The long lost 'City' of San Gabriel del Yunque, second oldest European settlement in the United States", in When Cultures Meet: Remembering San Gabriel del Yunque Oweenge, papers from October 20, 1984 conference held at San Juan Pueblo, New Mexico (Santa Fe, 1987). Dr. Baxter gives pages 10-39 in his footnote. The actual reference is found on page 17. Page 17 of Ellis's chapter states "The general statement that the move of Onates headquarters and of the Spaniards in general from Okeh to Yunque during the midwinter period of 1600-1601 appears to be safe". She does not give a footnote reference for this. While the Baxter quote references a move to San Gabriel from San Juan there is no mention of an irrigation system. However, F.H. Ellis, (mid page 17, does talk about beginning work on an irrigation system at San Juan to serve "the City of our Father San Francisco".

The names for locations and the roles they play in the historic narrative will appear confusing for generations of scholars; and thus, also be open to interpretive exploitation in argument. Her full chapter should be read

along with, at least, her first chapter in “San Gabriel del Yungue, as seen by an Archaeologist”, (pg. 9-15), in the publication San Gabriel del Yungue as seen by an Archaeologist (Ellis, 1989, pgs. 9-15; Exhibit C). In these two chapters she provides her “ethnographic clarification” to the problem. In brief, an Indian Pueblo is a cluster of sites that share a single language (Ellis, 1989, pg.13). She goes on to note that even the Spanish reported site divisions within a “Pueblo” (She references Hammond and Rey, 1953: p. 322). (Here after to be, H&R, 1953, pg(s). \_\_\_\_).

The confusion of place gets added to when the Spanish give the Indian locations Spanish names. Dr. Baxter does reference the Hammond and Ray entry that Onate began work on an irrigation ditch for a new city to be called “San Francisco de los Espanoles” (footnote5, page 3, H&R, 1953, pp. 322-323). He evidently places the City of San Francisco and its irrigation ditch at San Juan on the east bank of the Rio Grande. He then says the City fails. While he mentions the irrigation ditch he does not give Onate’s journal entry for the project of August 11, 1598 (H&R, 1953, pg.322-323). Then, Dr. Baxter describes the colonist’s move to new quarters across the Rio Grande before Christmas 1600 to San Gabriel. A new irrigation system was established. No date or reference is given for the construction of this second ditch. It seems odd and very hard, for an irrigation system to have been dug in winter. Dr. Baxter, page 4, describes information taken from the depositions of the 1601 inquiry (ibid, pp.701-

739). He, however, doesn't mention that there was a spring wheat harvest in the fall of 1599 at San Gabriel (ibid, pgs.714-15 & 718-19).

Wheat needs irrigation. For this to have happened, only one Acequia was dug; and fields prepared in the fall of 1598, at the San Juan Pueblo location of Yungue or the Spanish San Gabriel. To be "safe" Onate may have moved his headquarters in 1600, but it appears some Spaniard(s) was working the fields at San Gabriel in 1598. Actually the 1600 citation is for the arrival of a "reinforcement" party at San Gabriel on December 24, 1600, (ibid, pg. 619). To be working the fields at San Gabriel in 1598, an Acequia ditch run must have been laid out. The Acequia defines the relation of the living site to water run, to field and pasture, collectively the Acequia Community.

Now let's consider the Hordes reference, the Hordes Report at 3 (Doc. 9546, filed December 16, 2009, II, A. number 1., page 4). This citation is used by the Special Master to support the F.O.F. that at "sometime between the end of 1599, and early 1600, the colonizers moved to the West side of the Rio Grande to a place called Yunque Pueblo, also called San Gabriel de Yunque" (Doc. 9546, filed December 16, 2009, II, A. number 1, page 4). This would include the stipulated facts agreed upon by Dr. Baxter and Dr. Hordes (order, November 17, 1995, Doc. No. 4380).



These facts, in brief; the Onate expedition arrived at San Juan Pueblo in July 11, 1598, dug an Acequia on the east bank of the Rio Grande (no date given), then, in 1600 they move across the Rio Grande, establish a new settlement at San Gabriel and promptly dug a new irrigation system (Doc. 9546, filed, December 16, 2009, stipulated facts 2., 3., 4., 5., pg. 3). While the Hordes citation only cites page 3 to cover all the F.O.F's and stipulated facts, the reader needs to at least take a look at pages 3 and 4 of the report, Irrigation at the confluence of the Rio Grande and Rio Chama: The Acequias de Chamita: The Acequias de Chamita, Salazar, and Hernandez, 1600-1680, submitted by Stanley M. Hordes, Ph.D, June 24, 1996 (The copy we were given by Counsel Waltz has no page numbers or a court exhibit's designation, see Exhibit D).

Mid page 3, Dr. Hordes states "...on July 11 (1598); Onate arrived at the confluence of the Rio Grande and Rio Chama and established his headquarters at the Pueblo of San Juan. Exactly one month later, work began on an Acequia on the east bank of the Rio Grande, ... (footnote 3)," East Bank is purposely underlined for significance. Dr. Hordes footnotes this line with a reference from Hammond and Rey (H&R, 1953, pgs. 322-323). Note, the full quote for the work on the Acequia from Onate's journal entry of August 11, 1598 (ibid, p. 321), "On the 11<sup>th</sup> we began work on the irrigation ditch for the city of our father, Saint Francis" (ibid, pp. 322-323, see Exhibit D; Please also, refer to the above Ellis discussion

and Exhibit B). Notice there is no mention here of either San Juan or east bank of the Rio Grande. The need to insert San Juan and east bank is done without evidence, then placed within a strategic referenced footnote to give it validity. Note under his title "Settlement and Irrigation in the Area Served by the Acequia de Chamita 1600-1680" (Hordes, 1996, page 3), 1600 appears and 1598 disappears (see Exhibits A and D).

Then, Dr. Hordes follows by saying, "By the fall of 1600, demographic pressures had forced Onate to move his capital from San Juan to the west bank of the Rio Grande, which also constituted the north bank of the Rio Chama" (ibid, pages 3-4). There is no referenced footnote for this.

However, the references could be found in Hammond and Rey's introduction at page 24; their translation of Onate's letters dated March 22, 1601 at page 619 (H&R, 1953). In the first citation, Onate states, "The reinforcements of men, provisions, and other things sent to him from this New Spain arrived on the day before Christmas of the proceeding year, 1600, and he received it all, to the great satisfaction of everyone in the army who had been awaiting it" (ibid, page 619). Note there is no mention of place, San Gabriel. However, in Hammond and Rey's introduction they say, "...the expedition started. It reached San Gabriel, the New Capital, on Christmas eve, 1600, to the great excitement and rejoicing of the "old" soldiers at the capital" (ibid, page 24). San Gabriel as the place for this activity can also be reinforced by the chapter head, "Captain Velasco at the Viceroy", dated, March 22, 1601 (ibid, page 608).

These messages are written at the same time, 1601, as Onate's letters.

These references together, indicate that reinforcements and supplies arrive at San Gabriel in December 1600, but this has no implication for when San Gabriel was actually settled.

Dr. Hordes then quote's Juan de Turquemada for the location of "San Gabriel...is situated between two rivers, and the waters of the smaller of the two irrigates wheat, barley, corn, and other crops that they plant in gardens. Footnote 4", (His Exhibit 1, our Exhibit F). This is referenced by footnote 4. His footnote 4 states Fray Juan de Torquemada, Monarquia Indiana (Madrid: Nicolas Rodriguez Franco, 1723; Mexico City: Editorial Salvador Chaves Hayhoe, 1943, Vol. I, p. 672, "San Gabriel...está situado entre dos Ríos, y con las augas del menor de los dos, se riegan los trigos, cevada, y mais, y los demas cosas, que se siembran en las huertas." There are different publication dates for this reference; our Exhibit G is possibly an earlier date (1723, notice marginal dates, 1602 and 1608).

Then Dr. Hordes finished the paragraph by stating, "Thus irrigation of lands that today are served by the Acequia de Chamita began as early as 1600 (Hordes, 1996, page 4). Here too, there is no referenced footnote for the assignment of a 1600 date for the irrigated agriculture at San Gabriel/Chamita.

The curious assignment of the 1600 arrival of a mostly military reinforcement party at San Gabriel forces the lineal time progression we find in the Special Masters stipulated facts sequence, read at 2., 3., 4., and 5. (Doc. 9546, filed December 16, 2009, page 3). At stipulated fact 2., Onate's expedition did arrive on July 11, 1598, but this was the advanced party only. The main party would arrive on August 18, 1598 (H&R, 1953, p. 323). At stipulated fact 3, while no date is given at this stipulated fact, there is no indication that the August 11, 1598 Acequia, dug with the help of 1,500 pueblo Indians, was on the east bank of the Rio Grande (Doc. 9546, filed December 16, 2009, page 3; and H&R, 1953, pages 322-323).

At stipulated fact 4., there is no real indication that the 1600 arrival of a reinforcement party at San Gabriel verifies when the Acequia agricultural community at San Gabriel was actually established before the 1600 date. The arrival of the main party on August 18, 1598 with close to 500 people or more, over 7 thousand animals, working under the 'Settlement Ordinances of 1573', and with the construction of an irrigation system on August 11, 1598; indicates a different progression of timed events for San Gabriel (Doc. 9546, filed December 16, 2209, page 3).

At stipulated fact 5, the Spanish (agricultural) settlers would have promptly established an irrigation system at San Gabriel. Yes, it just

wasn't 1600, but rather on August 11, 1598 (Doc. 9546, filed December 16, 2009, page 3). In this different time frame there would not be a need for the digging of a second Acequia. Respectfully, the proper assignment of a priority date for the Acequia de Chamita should be August 11, 1598.

3. Now therefore, the presentation of evidence to be respectfully considered by the court, so that a change to the Special Master's Report would be made to the Acequia de Chamita's priority date only; such that it would read an earlier and proper date of August 11, 1598 (Doc. 9546, filed December 16, 2009, at 10 VI., RECOMMENDATION 2.)

- A. It perhaps remains unknown by this Honorable Court, but the State of New Mexico has all ready recognized the Acequia de Chamita's establishment date as August 11, 1598. This happened in 2007; in the period between the 1996 hearings and the current proceedings. The 48<sup>th</sup> Legislature-State of New Mexico First Session, 2007; House Memorial 14 and Senate Memorial 21 (Exhibit H). These Memorials urge "...The Cultural Affairs Department to include the Acequia de Chamita in the New Mexico State Register of Cultural Properties and nominate the Acequia de Chamita for placement on The National Register of Historic Places (Exhibit H). Of particular importance is the First Whereas in both Memorials; it states the August 11, 1598 establishment date for the Acequia de Chamita (Exhibit H, page 1). Exhibit H also contains papers that provides background for the development of the memorials.

Work on the Memorials was done through the Office of New Mexico Representative Nick Salazar. Exhibit H also contains some of the legislative materials behind the research, evidence and examination process that went into the Memorials. The examination and corresponding modification process was open to any asked State agency, from any State museum, archive, library, the State Historic Preservation Office, and the Office of the State Engineer. The Native American Liaison was also involved. Representative Nick Salazar is a member of Ohkay Owingeh. For example, it can be noticed that between the draft House Memorial (Exhibit H, A, pg.1) and the passed Memorials, 14 and 22 (Exhibit H, C and D, pg. 4) Governor Earl Salazar of Ohkay Owingeh was rightfully added to the recipient list (Exhibit H, B, C, pg. 2). While the wording on the Memorials first, Whereas, was modified, the assignment of the August 11, 1598 remained.

- B. For this Honorable Courts information, Exhibit I contains the By Laws and regulations of the Acequia de Chamita. The letterhead states, "Established 1598" (Exhibit I, page 405). At article III History and Definitions please read, "The history of Acequia development in New Mexico is rooted in the regions 400 year old Mexican and Spanish eras. Don Juan Onate established the Acequia de Chamita in August 11, 1598" (Exhibit I, pg 405). This document has been filed with the Office of the New Mexico

State Engineer and the Rio Arriba County Clerks Office. Both offices accepted the document without complaint.

- C. Further discussion and presentation of supporting documentary evidence that will, with respect, establish the appropriate water priority date of August 11, 1598 for the Acequia de Chamita only.

Introduction: Don Juan de Onate makes this August journal entry, “On the 11<sup>th</sup> we began work on the irrigation ditch for the city of our father, Saint Francis” (H&R, 1953, pgs 322-323, Exhibit E).<sup>1</sup> This is a highly unique statement for Acequia history in New Mexico. Very seldom, if at all, is there an actual date for the founding of a Spanish irrigation system. It would have been “sweet”, as a Los Alamos scientist might say after finding a solution to a problem; if only Onate had said, “on the 11<sup>th</sup> (August 1598) we began work on the irrigation ditch for the fields and pastures for the City of “San Gabriel”. But, he didn’t. Thus, this task of putting together pieces of a puzzle that will bring time, place and water system together for the Acequia de Chamita. As is known, the parciente(s), are without council, and are not Court Qualified Experts. We can only gather some evidence in a brief time; and let it speak on our behalf. With respect we apologize and ask the Court’s indulgence.

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<sup>1</sup> The Full citation: Hammond, George P. Agapito Rey, Don Juan de Onate Colonizer of New Mexico 1595-1698, University of New Mexico Press, 1953, Two Volumes, Volumes V,VI. This citation to be referenced in Section C as (H&R, 1953, pg.(s)\_\_\_\_.)

**Point(s) of Evidence (1): The Acequia is worked on, August 11, 1598.**

Don Juan Onate makes the August 11, 1598 journal entry, "On the 11th we began work on the irrigation ditch for the city of our father, Saint Francis", (H&R, 1953, pages 321-323; Exhibit E, pgs. 321-323; Exhibit J, Ord. #s, 35, 38, 39, 40).

**Point(s) of Evidence (2): From: "The Contract of Don Juan de Onate for Discovery and Conquest of New Mexico".**

From the beginning of the venture, Don Juan Onate and his Pobladores (settlers) were under contract from the King of Spain. This meant their activity fell under the Laws of the Indies, and especially the Ordinances of 1573, (H&R, 1953, pgs. 42-57; Exhibit J, Ord. #s 2, 107, pgs. 2, 6).

**Onate:**

"Upon reaching the first provinces and settlements of New Mexico, I shall proceed to found Spanish colonies in the most suitable manner, according to the climate and nature of the land."

**The Viceroy's, Don Luis De Velasco, Reply:**

"Let him observe his Majesty's orders contained in the Ordinances for New settlements found in articles 32 to 56, inclusive, and order it observed, in the name of his majesty". (H&R, 1953, pg. 48; Exhibit J, Ord. #s 32-56, pgs, 3 4).

**Onate:**

2. " Further, that as soon as I take possession of the land in the name of his



majesty, I am to have the title of Adelantado... in accordance with the said ordinance...”.

The Viceroy’s Reply:

2. “Let him be granted what is contained in the preceding chapter, as stated there “ (H&R, 1953, pg. 49).

Oate:

6. Further, the said conquerors and settlers shall be informed of The favors granted them and their descendants and successors by his Majesty in Ordinance 99, by which they are named hidalgos of an established lineage...”.

The Viceroy’s Reply:

6. “Let him be granted what is provided in Article 99 of The Ordinances” (H&R, 1953, pg 50; Exhibit J, Ord. # 99, pg 5).

**Point(s) of Evidence (3): Laws of the Indies and the Ordinances of 1573.**

It will be noticed that the Ordinances of 1573 were mentioned in Point of Evidence (1). From the time Oate was awarded his contract until he was tried and stepped down, he was under the Laws of the Indies and the Ordinances of 1573. It will be seen that in order for Oate to insure that he would maintain his titles and contract, Oate would be compliant with the Ordinances of 1573.

The Ordinances of 1573 are formally known as, Ordenanzas de

Descubrimiento, Nueva Polacion de las Indias dadas Por Felipe II eh 1573; a part of the Laws of the Indies or Leyes de Indias, completely as Recopilacion de Leyes de los Reynos de las Indias. For this text, it will be referred to as simply, The Ordinances of 1573, followed by the ordinance number(s); (Exhibit J and broken down into categories for application Exhibit K). These Ordinances while seemingly precise; would allow for some flexibility in their use. If Onate followed the Laws, and his settlers kept to the contract they would be awarded the title of Hidalgo or Hijosdalgo (The Ordinances of 1573, Exhibit J, # 99, pg. 5).

**Point(s) of Evidence (4): Onate's contract adheres to the Ordinances of 1573.**

Onate's contract, to undertake the entrada to New Mexico was approved on October 21, 1595 by the Viceroy, Don Luis Velasco. He wrote marginal notes on the document for its approval or modifications.

Onate wanted to be closely associated with the Royal Council of the Indies and follow the ordinances of 1573. He specifically stated that he wanted to be, "...under the immediate jurisdiction of the royal council of the Indies...". He continues, "...so that none of the viceroys of this New Spain or neighboring audiencias may meddle in the jurisdiction of the said government". (H&R, 1953, pg. 53).

Another of Onate's contract request was to plan and build a settlement, a

request that adheres to the Ordinances of 1573. The Viceroy's marginal notes read, "Let him observe his majesty's order contained in the ordinances of a new settlement found in articles 32 to 56..." (H&R, 1573, pg. 48).

The ordinances of 1573 numbers 32 to 43 refers to planning, laying-out and developing a city, town, farm land, pasture and acequia community. They encompass the selection of an Acequia community site, the selection of a site with plenty of water for irrigation and drinking. It too, should have good climate, clean and benign weather, and be in a healthy area. It should be an area that both Spanish and Indian can have lasting communities. The land should be suitable for farming, cultivating and pasturing. In order to build a town and capital for the people, a fertile area with good land to plant and harvest should be selected. It should have grasslands to grow livestock, mountains and forest for wood, and building materials. Then it, "should be populated by Indians to whom we can preach the gospels since this is the principal objective for which we mandate that there discoveries and settlements be made". (H&R, 1953, pg. 48; (Exhibit K at (D) Ord. #s 34, 35, 36)

Other request that meet the Ordinances of 1573 and granted in the contract are Ordinances, #s, 73, 80, 59, 76, 60, 65, 64, 77, 79, 81, 145. (H&R, 1953, pgs. 48-57; Exhibit J).

**Point(s) of Evidence (5): Ethnographic clarification for the place called San Juan Pueblo (Ohkay Owingeh).**

An Indian Pueblo, in Onate's time and now, is not a single habitation unit. It is made up of several geographic divisions within a single community. The Pueblo is a complex of numerous subdivisions of sections in relation to a whole. F.H. Ellis, the Archaeologist on San Gabriel (LA59) gives us a modern example of the Laguna Pueblo. It is a tribal community made up of at least nine local habitation groups: Old Laguna, New Laguna, Paguate, Pareje, Mesita, Encinal, Seama, and three post World War II additions, New York, Philadelphia, and China Town. The tribal center always has been Old Laguna; thus, San Juan on the east bank of the Rio Grande and Yungue, Pueblito, and El Llano, on the west bank of the Rio Grande. In Onate's time there was at least Okeh (her sp. for Ohkay), eastside of the Rio Grande and the Yungue Village (LA59) on the west bank. According to San Juan tradition, Okeh and Yungue would be home to a double moiety system, the summer and winter people. About the time of Onate's arrival the Yungue moiety would move over to the east bank village (Ellis, 1989, pgs 12-13, Exhibit C at (A), pg. 13).

Onate's Spaniards were aware of Pueblo Indian communities being clustered sites. On August 3, 1598, while exploring the pueblo of Jemez; Onate said, "They say there are eleven altogether; we saw eight..." (H&R, 1953, pg. 322). Thus, San Juan Pueblo was a clustered habitation site, now and when Onate

arrived. The implications for this for the evidencing process can appear ambivalent. An Onate period letter or document produced at “San Juan” could have been produced any where in the cluster. However, a letter or document produced at Yungue, San Gabriel Del Yunge, or San Gabriel, would have to have been written at San Gabriel or LA59 only. LA59 is Ellis archaeological site of San Gabriel at San Juan Pueblo, west bank of the Rio Grande, between the two rivers (Ellis, 1987, pg. 10; Exhibit C at (B)).

**Point(s) of Evidence (6): Place names.**

The name San Gabriel del Yunge Oweenge is also seen as San Gabriel de Yunque or Yunque-Yunque for the site (LA59) near Chamita. There are even other names found in use. The use of yugue or the yunque has generally meant a place or area that is now part of the San Juan (Ohkay Owingeh) reservation, and therefore Tewa in origin and meaning. Often there is just the substitution Yungue for Yunque, or the g for the q. J.P. Harrington, an ethnologist in the early 19th century, worked among the Tewa in the San Juan area. His informants told him the Yungue Owingeh, “...means clearly enough ‘down at the mocking bird place’” (Harrington, 1916, pg 227, Exhibit M, Chamita Map 13, pg. 227 [13:27]). Further on in page 227, he introduces the “Yuqueyunque” referenced with his footnote 1, “Castaneda (1596) in fourteenth Ann. Rep. Bur. Amer., Ethn. pg. 525, 1896”.

He states that, “The writer may have been influenced by the Span. (Spanish)

yunque 'anvil' ", (Harrington, 1916, pg. 227, Exhibit M, pg. 227 [13:27]).

While this Spanish meaning is generally not considered, it does have geographic implications. Anvil can be a highpoint or indicate, the high ground. At San Gabriel it could indicate the fertile crescent area at the confluence of the two rivers. It could also have been applied to the hill, now occupied by a cross and plaque just above the San Gabriel site. Harrington would also link the names Yunque-Yunque, Chamita, San Gabriel del Yunque, San Francisco de los Espanoles, together at the San Gabriel site (LA59) between the two rivers. (ibid, Exhibit M, Map 13, #27).

**Point(s) of Evidence (7): The Yungue or San Gabriel Site, LA59.**

**The two basic sources for the description of L59.**

1. San Gabriel del Yungue as seen by an Archaeologist, Sunstone Press, Santa Fe, N.M., 1989.
2. National Register of Historic Places Inventory -- Nomination Form, United States Department of the Interior, National Park Service, 1849 CSt. NW (MS2280) Washington D.C. 20240. Form for San Gabriel de Yungue-Ouinge.

The National Register form was filled out and submitted for San Juan Pueblo (Ohkay Owingeh). The National Register form states: At 1. Name, Historic: "San Gabriel de Yunque-Ouinge" and/or Common: "San Gabriel, LA59 (page 1)". At 7. Description: "The site is designated as LA59 by the New Mexico Historic Preservation Division, Archaeological Management System,

the State's repository of Cultural Resource Site and Survey Data. The first Hispanic settlement has been referred to by various names including Yuge-ouinge; San Gabriel de (del) Yuque-Yunque; San Gabriel de Yunque-Owenge; Yunque-Yunque; Yugeyuingge; San Gabriel de Chamita; San Francisco de los Espanoles; San Juan de los Caballeros", (Nat. Reg. Of Hist. Places Inventory, Nomination Form, NPS, MS 2280, Form for San Gabriel de Yung-Quinge).

The announcement of the National Historic Landmark designation (July 19, 1968) refers to the site as San Gabriel de Yunque-Ouinge. The most frequently used common names for the site are San Gabriel or Yunque. Throughout this nomination the site is referred to as San Gabriel.

A State Historic Marker, designating the site of the First Capital of New Mexico is located on State Highway 74 about one-quarter mile (.4 km) North-Northeast of the archeological site of San Gabriel (page2). "... the archeological site thought to be the remains of the first Hispanic settlement is located on the west bank of the Rio Grande about three-quarters of a mile (1.2 km) west of San Juan Pueblo in Rio Arriba County, New Mexico and about one mile (1.6 km) North-Northeast of the confluence of the Rio Chama and Rio Grande. These archeological remains occupy a tract of about 8.58 acres within the SW 1/4 of the NW 1/4 section 15, T21N, R8E). The site lies wholly on San Juan Pueblo lands..." (pg.2). Then, for a visual sense of LA59 please

see Exhibit L, for Florence Hawley Ellis maps and photographs of the archaeological excavation at San Gabriel del Yungue, LA59, (Ellis, 1987 and 1989; Exhibit L).

**Point(s) of Evidence (8): The San Gabriel Site location.**

LA 59: USGS, San Juan Pueblo, QUAD. T21N, R8E, Sec. 15 (Ellis, 1987, pg. 10; Exhibit C at (B)).

**Points of Evidence (9): The Historian Myra Ellen Jenkins on the time and location of San Gabriel.**

Myra Ellen Jenkins, the noted New Mexico historian, states, “I submit that the colonist were probably settled at San Gabriel from the beginning”. Above this quote, she connects the pueblo of Yunque, with the name change to San Gabriel (Exhibit U, Jenkins, 1987, pg. 63). Her observations are referenced with Hammond and Rey (Exhibit U, Ibid, pg. 71, footnote 4 and 5, pg. 71; H&R, 1953, pgs. 608, 609, and pgs. 644-652).

**Point(s) of Evidence (10): Location of San Gabriel during Onate’s time.**

Joseph Brondate, one of the original members of Onate’s entrada in 1598 (H&R, 1953, pg. 300), stated in his interview on April 30, 1601 in Mexico regarding the conditions in the provinces of New Mexico. He stated, “When the latitude was taken at this pueblo of San Gabriel it was found to be 37 degrees and 15 minutes North latitude”. (H&R, 1953, pg.625).



**Point(s) of Evidence (11): Location of San Gabriel during Onate's time.**

Friar Juan de Torquemada was a chronicler of the times. He wrote about the provinces, San Gabriel and the Valley and other places in New Spain and New Mexico.

In Torquemada's writings, he says, "San Gabriel...is situated at 37 degrees latitude, and its sides consist of two rivers, one of which has less water than the other..." (Exhibit G, Torquemada, Friar Juan de, Monarquia Indiana, marginal paper note 1602, pg. 672; Torquemada wrote not later than 1609, [see Bandelier 1892, page 60, footnote 2, referenced (Carta Nuncupatoria, Ibid. to Toquemada, Monarchia, Vol.i)]).

**Point(s) of Evidence (12): Location of San Gabriel during Onate's time.**

Juan Rodriguez was with the original party in 1598, (H&R, 1953, pg. 290). He went with Onate on the discovery and conquest of New Mexico as a Commander; and remained in the provinces. He then, took part in all the discoveries and explorations made by the Governor.

An interview conducted in Mexico on April 22, 1602 regarding new discoveries undertaken by Governor Onate. He was asked, "...if he knew latitude of San Gabriel, what they reckoned it to be at the new settlements, and how far he thought the latter were from the North or South seas, and, being shown a map and asked to give his observations, as an experienced navigator,

the witness answered that he did not take the latitude at San Gabriel, because he lacked the means for doing so, but he believed it must be 36 1/2 degrees. Although Captain Brondate told this witness that he had taken the Latitude with a quadrant and had found it to be 37. The reason he thinks it is 36 1/2 degrees is that he took the latitude at Puara when he entered the land with Castano de Sosa and found it to be 34 1/2 degrees and since San Gabriel is farther north, it must be 36 1/2 degrees, but no more; that the direction taken by Don Juan de Onate on his expedition to the north was always east by a quarter northeast, and, discounting the zigzagging of the carts and the marching in circles, he believes that it could not have been more than 2 1/2 degrees, so he believes that the new settlement must be in 39 degrees, and therefore that the distance from there to North sea must be about four hundred leagues, and much farther to the South sea". (H&R, 1953, pgs. 870-871).

**Point(s) of Evidence (13): San Gabriel and City of San Francisco.**

City of our father, San Francisco locates where the first Acequia of Ibrian-Arabic origins was dug (H&R, 1953, pgs. 322-323). So where was the City of San Francisco de los Espanoles built. (H&R, 1953, pg 346). In a testimonial given on September 9, 1598, Onate assigns the priests to their provinces and villages (H&R, 1953, pgs 342-347). Onate assigns,"... Father Cristobal de Salazar, the province of the Tequas, with the pueblos of ---, ---, ---, ---, this pueblo of San Juan Bautista, and San Gabriel, ---, ---, ---, ---, ---, ---; and in addition, the city of San Francisco de los Espanoles, which is being built

now", (H&R, 1953, pgs. 342-347). The pueblos (villages) of San Juan (Indian), and San Gabriel (Spanish) and the Spanish Villa (City) of San Francisco, then under construction, are all separate entities in 1598. San Juan is east of the Rio Grande. The Spanish San Gabriel and San Francisco de los Espanoles are west of the Rio Grande and between the two rivers as mentioned by Juan de Torquemada (Exhibit G, pgs. 672-678). There is a hint here that San Gabriel a village, was to become a part of the larger City of San Francisco. However, A.F. Bandelier states in a footnote, "This might indicate that it was Onate's intention to call the new settlement San Francisco. But it is abundantly proved that its patron Saint was San Gabriel from the very beginning" (Exhibit V, A.F. Bandelier, 1892, footnote 2, pgs 59-60; Exhibit K at (A), Ord. #s 38, 42, 90, pg. 4, #s 110, 136, 137, pg. 2, #s 140, pg. 3; and Exhibit K at (B), #s, 90, 103, pg. 1, #110, pg. 2, #128, pg 3, #s 129, 130, 131, 132, 135, 137, pg. 4).

**Point(s) of Evidence (14): Regarding when San Gabriel was first established.**

Joseph Brondarte arrived in the provinces of New Mexico (modern day El Paso) on April 30, 1598 where Onate formally took possession of the new land until this interview of March 23, 1601 (over 3 years). This interview was held in Mexico by order of the Viceroy on July 28, 1601 regarding the conditions in the provinces of New Mexico.

He was asked what he saw from the first pueblo in the provinces to the locality where Onate had established the headquarters of his army and the rest of the people. He said, "...that he had been in all the pueblos of that region as far as San Gabriel, which is the place where their camp was established."

(H&R, 1953, pg. 625). He also added, "When the latitude was taken at this pueblo of San Gabriel it was found to be 37 degrees and 15 minutes north latitude" (H&R, 1953, pg. 625; Exhibit J, #35, pg. 3).

He was asked how the governor had established his camp, if it was founded as a town or was only temporary. He answered, "...that the governor and his people had settled in an Indian pueblo consisting of approximately four hundred (400) houses, which the Spaniards occupied and adapted to their needs...The place was appropriate for any kind of establishment, because it had water, rivers and forest." (H&R, 1953, pg. 629; Exhibit L).

**Point(s) of Evidence (15): A settler's account of the first Headquarter at San Gabriel.**

Interviews on September 7, 1601 were held at San Gabriel, (H&R, 1953, pg. 672-673) in regards to conditions at the settlement.

Captain Alonso Sanchez, Contador and official of the real hacienda stated, "...that about 6 years earlier (from the date of the interview of 1601) he left the town of Nombre de Dios in New Spain..." (H&R, 1953, pg. 683), to join

Onate's entrada into New Mexico; so, he was part of the main party that arrived at the settlement (LA 59) on August 18, 1598 (H&R, 1953, pg. 323). He continues, "...he marched with the main body of the royal army and reached this pueblo and camp, (interview at San Gabriel in 1601), having traveled two hundred and sixty (260) leagues at the pace of the numerous carts which he brought". (H&R, 1959, pg 684).

**Point(s) of Evidence (16):** This regards when San Gabriel was first established.

Marcelo de Espinosa arrived in the provinces of New Mexico (modern day El Paso) on April 30, 1598 where Onate formally took possession of the new land. Espinosa was one of the original settlers that came in on 1598 (H&R, 1953, pgs. 314-32), until March 23, 1601, when he was sent to Mexico by Onate to deliver reports to the Viceroy.

While in Mexico on July 28, 1601, he was interviewed by the order of the Viceroy regarding the conditions in the provinces of New Mexico (H&R, 1953, pgs. 623 & 632). Between Onate taking possession of the land to this interview, Espinosa and other settlers were under Onates leadership for over three years.

At the interview he was asked if the Governor established his headquarter as a city or a temporary settlement. Espinoza said, "...that it was established in a

pueblo named San Gabriel, which belongs to the Indians. They sent the Indians to another pueblo facing this one (San Gabriel) and separated only by the Rio de Norte” (H&R, 1953, pg. 639; Exhibit G, for location of San Gabriel by Friar Juan de Torquemada). He also said that the location of San Gabriel, “...is suitable for a great city, for it has rivers, springs, and woods very close by”. (H&R, 1953, pg 639; Exhibit K at (D), Ordinances of 1573, for meeting land and water requirements.) Espinosa added, “It (San Gabriel) must have four hundred (400) houses which the Spaniards adapted for these living quarter”. (H&R, 1953, pg. 639; Exhibit L, pgs. 32-34, 43; Exhibit K at (D) Ord. #39,pg. 1, regarding reusing building materials for construction).

**Point(s) of Evidence (17): This regards when San Gabriel was first established.**

Gines de Herrera Horta came with the reinforcements on December 24, 1600. The Viceroy commissioned him as Chief Auditor and Legal Assessor to Onate. He remained at San Gabriel only 3 or 4 months because the Governor refused to recognize the commission. He returned to Mexico on March or April of 1601; was interviewed in Mexico on July 28, 1601 by orders of the Viceroy regarding the conditions in the provinces of New Mexico (H&R, 1953, pgs. 643-644).

He was asked how the camp was established, whether it was fortified or exposed, and how it was set up. Horta reported, “that he (Onate) had

established it in one of the Indian pueblos, and that the Spanish were living in the houses of the natives, except that they had built doors and windows in them in the Spanish custom” (H&R, 1953, pg. 652; Exhibit L, pgs. 34,43, this is in keeping with F.H. Ellis’ information that this is San Gabriel).

**Point(s) of Evidence (18): This regards when San Gabriel was first established.**

Captain Juan de Ortega went with the reinforcements sent to the governor that reached San Gabriel on December 24, 1600 and he remained until March 23, 1601 (H&R, 1953, pg.658).

To the question of, “...what manner the governor had established his headquarters...”. Ortega said that the headquarters, “...was established in an Indian pueblo which the Spaniards used as they found it, without building any fortification. What they did was to cut a few doors and windows in the houses” (H&R, 1953, pg. 666). This is in keeping with F.H. Ellis’ information that this is San Gabriel (Exhibit L). He was asked how many Indians had been baptized since Onate was at the provinces. He said, “...most Indians had been baptized at the headquarters in San Gabriel, but he did not know how many” (H&R, 1953, pg. 667).

**Point(s) of Evidence (19): Estates and property were sold.**

At San Gabriel on March 22, 1601, Captain Don Luis de Velasco writes about conditions in the provinces. He writes about past events that he does not approve. In one past event he states that, "...the Governor has confiscated property and sold it at public auction..." He adds, "...such was the case with some property belonging to the late Captain Pablo de Aguilar, and with the entire estate of...Bivero (Bibero) who was killed at (the battle of) Acoma" on December 4, 1598 (H&R, 1953, pgs. 617-618).

Bivero was an original settler and at least arrived at the Valley and San Gabriel on August 18, 1598 when the main party arrived. Before he died at the battle of Acoma, he was at San Gabriel and the Valley for 2 1/2 months. He acquired at that time farm and building lots at San Gabriel through a lottery distribution system set out in ordinances of 1573 (Exhibit K at (B), Ord. #127, pg. 3, #130, pg 4). The possessions he brought with him traveled with him on the entrada to New Mexico. Bivero's, "...entire estate...", land and processions, was auctioned off (H&R, 1953, pgs. 617-618).

Aguilar and his wife were also original settlers (H&R, 1953, pgs. 270, 612). He too, was under the lottery distribution system in acquiring farm and building lots (Exhibit K at (B), Ord. #127,pg. 3, #130, pg. 4). With his tragic death, some of his property was auctioned (H&R,1953, pg. 618). He brought with him on the entrada; horses, farm/working oxen, military items, cooking equipment, personal cloths, and linens (H&R, 1953, pg. 270).



**Point(s) of Evidence (20 ): Met the Ordinances of 1573-Brought farm and building tools and animals.**

In meeting his contract (Ordinances of 1573) of planning and developing a sustainable town and an acequia community, Onate instructed his settlers to take the needed farm and building tools and animals on the entrada. (H&R, 1953, pgs. 199-308, San Bartolome Inspections; Exhibit K of (B) & (D)).

In the last inspection at San Bartolome, Santa Barbara in December 1597, before the entrada to New Mexico, many farm and building tools were listed in the inventory. Listed here are: sickles, plowshares, hoes, chain with collars, chains, collars, carts, harnesses, mules, oxen, augers, axes, saws, chisels, cowboy goad sticks, adzes, hook blades, anvils, sledge hammer, grindstone, box of knives, hocking blades, blacksmiths hammer, crowbar, toolkits for shoeing horses, bellows, pack saddles, blades for cutting wood, mallets, bars, picks, hammers, iron file, portable forge, fregenal knives, blower and pipers. (H&R, 1953, pgs, 199-308).

Also, at the time of the inspection the list of animals they brought to be used as food for the trip and at the settlement site (LA 59, San Gabriel) totaled 7,436 animals. They were: goats, oxen for carts, sheep, rams, colts, cows, steers, milk cows, mares, mules, jackasses, hogs, calves and horses. (H&R, 1953, pgs. 199-308).

**Point(s) of Evidence (21): Spanish and Indian Crop Growing patterns.**

Spanish and Indian crop growing systems were different irrigation patterns in Onate's time. Richard Ford, an Ethnobotanist that studied the areas around San Gabriel and Pueblo corn growing systems said, "...corn was planted mostly in scattered dry-farm fields, some in arroyos away from the flood plains." (Ford, 1987, pg.84).

Frank Wozniak also studied in the Rio Grande Valley area; and produced a manuscript, Irrigation in the Rio Grande Valley, New Mexico. The conclusion in his chapter, "About Irrigation Before the Spanish Colonization", states that mainly, "...flood water and other forms of dry farming,..would appear to have been virtually the exclusive form of agriculture among most Puebloan groups and to have remained a major component of the subsistence technology even among those who utilized some form of irrigation."(Wozniak, 1987, pg. 15).

Captain Velasco writes to the Viceroy about conditions in the area, he says, "...most of the maize they (Indians) cultivate depend on rainfall" (H&R, 1953, pg. 610). And in Ford's chapter in, When Cultures Meet, he says, "Although the degree of aboriginal irrigation is not mentioned, Spanish certainly commented on the rainfall agricultural practiced regularly by the Tewa"(Ford, 1987, pg.74).

(Ohkay) describes their traditional crop and farming method, "...The method of farming was called dry farming." (Exhibit N, pg. 27).

The Spanish used an Acequia method of irrigation. Crops would be irrigated by the water from the Rio Chama. The water from the major stream would flow down the ditch conduit (Acequia); and then directed onto the fields to irrigate wheat, vegetables and other crops. The Acequia water would also flow down pass the long lot designated farm fields and back into the river. Wheat, vegetables and fruit, and farm tools and equipment were brought with the settlers for the farms they would be cultivating. (H&R, 1953, San Bartolome Inspection, pgs. 199-308). Ford said that in order to grow wheat, "Wheat was concentrated on bottom lands accessible to irrigation water" (Ford, 1987, pg.84). He continues, "An Acequia was imperative if there would be wheat to replenish their depleted stores the next year" (Ford, 1987, pg. 74). To encourage the Indians to exercise new technology brought in by the Spanish, Ford states, "They brought spring wheat so it was not until the following year that the Spanish demonstrated a new technology the Indians would soon adopt: plowed fields, irrigation wheat, kitchen gardens for vegetables and herbs." (Ford, 1989, pg. 84).

Lastly, the other very major difference between Indian and Spanish agricultural systems was the growing of domesticated livestock. As a part of an Acequia community; this required surrounding commons areas for grazing.

**Point(s) of Evidence (22):** A small point on where the first Acequia was dug.

A brief point of ethnographic clarification: The Archaeologist on the San Gabriel site (LA59), Florence Hawley Ellis makes the statement, "According to San Juan tradition, all Spanish ditches were west of the river", (Exhibit C, at (A); Ellis, 1989, pg 10).

Harrington, the ethnographer would put it this way, for the San Juan Pojege or "down where the waters meet..." This name applies to the confluence and the adjacent locality. As used at San Juan Pueblo, it often refers especially to the fields of San Juan Indians bordering on the Rio Grande, just east of the confluence, number 36 on his Map 13 (Harrington, 1916,[13:36], pg. 229; Exhibit M at Map 13, #36).

**Point(s) of Evidence (23):** Spring wheat

Richard I. Ford, an Ethnobotanist, writes about Onate's time at San Gabriel, the Indians, and the valley area; he states, "Wheat was concentrated on bottomlands accessible to irrigation water." (Ford, 1987, pg. 84). He continues, "They (Spanish) brought spring wheat (in 1598), so it was not until the following year (1599) that the Spanish demonstrated a new technology that the Indians would soon adopt: plowed fields, irrigation wheat, kitchen gardens for vegetables and herbs." ((Ford, 1987, pg. 84; Ordinances of 1593,

Exhibit K at (A), Ord. #137, pg. 2, Indians admiration of settler's skills). He adds, "Wheat became the high yield caloric safety in the pueblo economy. Its cultivation demanded only a reliable supply of irrigation water." (Ford, 1987, pg. 84).

**Point(s) of Evidence (24): A Settler account of the wheat harvest of 1599 (1st harvest), 1600, and 1601.**

At San Gabriel, October 3, 1601, interviews were conducted and the reports regarding the conditions in the area were to be sent to the Viceroy.

Captain Gomoiz Montesinos, an original member of Onate's group, arrived at the settlement in New Mexico on August 1598. (H&R, 1953, San Bartolome Inspection of December 22, 1597).

He said, "...that in our first year here we sowed seven (7) fanegas of grain which produced One hundred and eighty-eight (188) fanegas and the governor ordered him to administer it." (H&R, 1953, pg. 715). The Acequia was dug in August 11, 1598 (H&R, 1953, pg. 322-323), and the first sowing of spring wheat would be about March of 1599. (In Richard I. Ford's article "The New Pueblo Economy" in When Cultures Meet, he says, "Wheat...Planted when frost left the ground..." (Ford, 1987, pg 84). So the first planting of wheat would be in the spring (March/April) of 1599. Montesinos continues, "...The second year fifty (50) fanegas of grain were planted, and as for the yield, this

witness learned from the friars that as their tenth they collected more than eighty (80) fanegas (so the yield would be 800 fanegas, [1 tenth of 800 fanegas is 80 fanegas]). (H&R, 1953, pg.715). He continues, "...This year...more than fifteen hundred (1500) fanegas of grain were harvested..." (H&R, 1953, pg. 715).

What's important is not the amount of the spring wheat harvest, but that Harvest took place. Spring wheat needs irrigation water (Acequia) to grow. (see P.O.E. #s 21, 23). Spanish and Indian crop growing patterns).

So, the calculations would be the following:

- This year's harvest in fall of 1601 and sowed in spring of 1601
- 2nd year's harvest in fall of 1600 and sowed in spring of 1600
- 1st year's harvest in fall of 1599 and sowed in spring of 1599

The 1st year at San Gabriel it was fall of 1598. They dug an irrigation ditch (Acequia) (H&R, 1953, pg. 322-323) and laid-out and prepared the fields and pastures (Exhibit K at (B); Exhibit K at (D)) for the coming spring sowing of 1599.

**Point(s) of Evidence (25): A Settler's account of the wheat harvest of 1599 (1st harvest), 1600, and 1601.**

At San Gabriel, October 3,1601, interviews were conducted and the reports regarding the conditions in the area to be sent to the Viceroy. (H&R, 1953, pg.

716).

Captain Gomez Gonzalo Hernandez an original member of Onate's party arrived at the settlement in New Mexico in August 1598. (H&R, 1953, The San Bartolome Inspection of December 22, 1597, the last inspection before the entrada into New Mexico, pg. 230).

He said, "...that ever since we arrived here we always planted grain and many kinds of native vegetables and increased these plantings every year." (H&R, 1953, pg. 719). He continues, he "...saw more than seven (7) fanegas were sowed in the first year, and that around two hundred (200) were harvested. The second year they sowed more than fifty (50) fanegas and gathered about one thousand (1000). This year we sowed about one hundred (100) fanegas of grain and much will be harvested" (H&R, 1953, pg 719).

Again, the important evidence is that spring wheat was harvested, not necessarily the amount of wheat harvested; and that spring wheat needs irrigation to grow. (see P.O.E # 23-Spring wheat; P.O.E. #21-Spanish and Indian crop growing patterns.

So, calculate the harvest years:

- This year's fall harvest is 1601 and sowed in the spring of 1601
- 2<sup>nd</sup> year's fall harvest is 1600 and sowed in spring of 1600
- 1<sup>st</sup> year's fall harvest is 1599 and sowed in the spring of 1599

In the 1<sup>st</sup> year at San Gabriel it was fall of 1598. They dug an irrigation ditch, (H&R, 1953, pg. 322-323), laid-out and prepared the fields and pastures, (Ordinances of 1573, Exhibit K at (B) and (D)).

So, again to calculate the harvest years:

- This year's fall harvest is 1601 and sowed in the spring of 1601
- 2nd year's fall harvest is 1600 and sowed in the spring of 1600
- 1st year's fall harvest is 1599 and sowed in the spring of 1599

In the 1st year at San Gabriel it was fall of 1598. They dug an irrigation ditch, (H&R, 1953, pg. 322-323) laid-out and prepared the fields and pastures, (Ordinances of 1573, Exhibit K at (B))-planned and laid-out town and fields and pastures; Exhibit K at (D)- Selecting an area with good land, water, etc.), for the coming spring sowing of 1599.

**Point(s) of Evidence (26):** A Settler's account of the wheat harvest of 1599 (1st harvest), 1600, and 1601.

Captain Bartolome Romero was one of the original settlers with Onate's group that arrived at the settlement in New Mexico in Aug 1598. (H&R, 1953, San Bartolome Inspection [December 22, 1597], the last inspection before the entrada into New Mexico, pg 264).

Captain Romero said that "...the first year the Spanish harvested about two hundred (200) fanegas of wheat; the second, some one thousand five hundred



(1500) fanegas, which shows that the harvest increases every year. This is true, also, with vegetables.” (H&R, 1953, pg. 710).

**Point(s) of Evidence (27): Settler’s account of the wheat harvest of 1599(1st harvest), 1600, and 1601.**

At San Gabriel on October 3, 1601 interviews were conducted and the reports sent to the Viceroy about conditions in the area.

Captain Geronimo Marquez was selected to conduct the interviews. He prepared several questions to ask each person. One of the question, #14, read, “... if he knows that in the three years we have been here we have planted wheat and vegetables and that both the planting and harvests have increased.” (H&R, 1953, pgs. 701 &704). The three years before this interview date of October 3, 1601 is October of 1598.

Interviewed: Alferez Martin Gomez. He said, “... that he knows from observation that the Spaniards plant wheat and Castilian vegetables and that more is sowed every year”. (H&R, 1953, pgs. 720 &722).

Interviewed: Hernan Marin Serrano. He said, “... that every since we came here planting and harvesting are on the increase, and he believes that it will always be so in the future”. (H&R, 1953, pgs. 723 & 726).

Interviewed: Juan Luxan. He said, “... that he saw the harvest, but not the other things mentioned.” (H&R, 1953, pgs. 735).

**Point(s) of Evidence (28): The arrival of the advanced party at San Juan,**

**July 11, 1598.**

Onate made this journal entry for July 1598, "On the 11th we traveled two leagues to the pueblo of Caypa, which we called San Juan (Footnote 21). The army and the carts stopped here..."(H&R, 1953, pg. 320). Hammond and Rey's footnote 21 states that Caypa was a mistake for the Okhe Pueblo or San Juan de los Caballeros (H&R, 1953, pg.320). This advanced party was at least 60 or more men including Onate. (Encinias (eds), Villagra's History of New Mexico, 1992, pg. XXX, at footnote 29, on pg. 253). Sadly though, there is no indication of how many carts were in the advanced party or what was in them. (H&R, 1953, pg. 320). However, besides provisions, we know they brought with them work tools and farm implements; plow shears, shovels, hoes and animal draft rigging for the plows (H&R, 1953, pgs.199-308, the San Bartolome Inspection). Surely, a draft ox and mule that pulled a cart could pull a plow. It is known that Onate established his camp, headquarters and capital at San Juan's Okhe village. He was the Governor General.

On the 13th the governor left San Juan de los Caballeros to explore the Picures area. He would have left behind a group to begin work on the new Villa of San Francisco. Most of history tends to follow 'the great man'. It makes it difficult to follow the pobladores and what they had to do. Before Onate left, he would have appointed, if not before, a "town planner" (Exhibit K at (A), Ord. #137, pg.3). The Ordinance of 1573, number 137 in part reads, "At the beginning of the building of a town, the governor shall name one person who

will occupy himself with the sowing and cultivation of the land, planting wheat and vegetable so that the settlers can be assisted in their maintenance. The cattle that they brought shall be put out to pasture in a safe area where they will not damage cultivated land nor Indian property...". The name of this community planner, staff, and crew remain unknown at this time.

The first thing they would do was to locate the Acequia. The Acequia system was established as the first feature in a new community (Simons, Li and Associates, 1999, pg. [3-43]). The acequia would sustain the community and define village to farm field, pasture and commons areas. They would have about a month to locate, survey a course, and put together the labor force necessary to dig the Acequia that Onate's crew would begin work on August 11, 1598. (H&R, 1953, pg. 322-323). This would include the social negotiation to gather the 1500 Indians for the work crew (H&R, 1953, pg. 323). This Acequia would define the agricultural village that would form the basis for the new Villa of San Francisco de los Espanoles (Exhibit K at (A), Ord. #137, pg. 2 and at (B)).

As to the location of this first Acequia, it had to be laid-out for the City of San Francisco de los Espanoles, at Yungue or just beyond San Gabriel, between the two rivers. They knew the large main party would arrive before the end of the month. The new settlers would have to know where to settle, pasture their herds, and begin work on their fields. The planning staff would then, survey

plots for field and pasture for the “lottery” distribution system of property (Exhibit K at (B), Ord.#127 pg.3 and #130, pg. 4). After the ditch course was delineated, the planning staff would then, survey land plots for field and pasture for the “lottery” distribution of property. All this is in keeping with the Ordinances of 1573. (Exhibit K at (B), Ord. #127, pg. 3 and #130, pg. 4). If the new settlers wanted their “Titles”, and the right to keep the property they came for, the Ordinances would have to be followed (Exhibit J, Ord. # 99; Exhibit K at (A), (B), (D), (E).

What about doing all this work at the village of Okhe instead of at the San Gabriel, Yungue area? Would the settlers really have preferred to work the Puebloan east bank of the Rio Grande; rather than the long unoccupied fertile area between the two rivers?

The advanced party moving north from San Bartolome into New Mexico would be witness to the puebloan growing season. In June, 1598, this journal entry, “On the 25th we proceeded six leagues in the same direction in search of Puaray, passing many pueblos, farms, and planted fields on both banks of the river...” (H&R, 1953, pg. 319). Then this, “On the 27th we traveled five more leagues. The governor was mired down in a maize field, although he got out...”(Ibid).

When the advance party arrived at Okhe (San Juan de los Caballeros) in

August they would have witnessed the puebloan growing season going into full growth. The harvest season in the Chamita area is in late September. It really is quit doubtful that the planning staff would have ordered the work crew to destroy an entire crop yield of corn, destroy the fields; then overlay it all with a totally new Acequia agricultural system. All this would be in violation of the Ordinances of 1573 (Exhibit K at (A), (B), (D), (E)). It just seems unlikely, that after all the planning and work, they would abandon all this work effort, and in a few months move across the Rio Grande to the west bank between the two rivers (Jenkins, 1994, pg. 63 and footnote 3; her footnote 3 reference's H&R, 1953, pgs.17 and 609). That would have meant laying out an entire new Acequia/Acequia Community plan. Do the labor work on that second anonymous ditch. Then have a lottery and layout field allocations; this all before the winter shut the area down.

**Point(s) of Evidence (29): The arrival of the Main Party, August 18, 1598.**

On August 18, 1598, the main party arrived a week after the Acequia was Excavated (H&R, 1953, pg. 323). The "Primero Pobladores" long, exhausting journey from Mexico City was finally over. It's curious that neither the Special Master's Report (Doc. 9546, 12/16/2009, page 3), nor the order adopting stipulation (Doc. 4380, 11/17/1995, page 2) agreement between Dr. Hordes and Dr. Baxter, mentioned the arrival of this second major part of Onate's expedition. The extension of this main body on the march could have stretched out over a distance of three miles (Moorehead, 1958, pg. 8, footnote

6-which sites, H&R, 1953, pgs. 199-308; Villagra, 1992, number 44, pg. 88).

The retinue consisted of approximately 500 settlers. The 500 settler number comes from Captain Velasco's letter at San Gabriel. (H&R, 1953, pg. 608).

Marc Simmons in his, The Last Conquistador, has a nice discussion about trying to pin down an exact number (Simmons, 1991, pg. 96). For example, the San Bartolome Inspection didn't count Arrieros (mule packers), all of the wives and children, all of the Mexican Indian servants, laborers or slaves (H&R, 1953, pgs. 199-308). At the time of the August 18 arrival there were 61 carts. There would be 83 carts altogether; twenty-two were empty, left on the road to rest the oxen. (H&R, 1953, pg. 320). As for the drive of domestic livestock, there was a count of 7,436 at the San Bartolome Inspection (H&R, 1953, pgs. 199-286; Also see, Villagra, 1992, number 205, pg. 92).

A count of domestic animals at the San Bartolome's Inspection (H&R, 1953, pgs. 199-286).)

Goats	796
Oxen for carts	515
Sheep	3017
Rams	383
Colts	153
Cows	102
Steer	30
Milk Cows	94
Mares	172
Mules and Jackasses	138
Hogs	55
Calves	501
Horses	1284
Just listed animals	4
Livestock listed at head	192
Total	7436

A verification of the count can be found in this entry from the "Itinerary of the Expedition, 1596-98". The April 1, 1598 entry states: "Then we unyoked the cattle, and more than five thousand head of livestock of all kinds drank, and later two thousand more head of cattle and mares that were following behind" (H&R, 1953, pg. 313).

Some of the animals were for breeding, and some were trained to task. At the San Bartolome Inspection Onate alone declared 41 mules and Jackasses, some to pull carts and his two state coaches. Twenty of them were pack animals (H&R, 1953, pg. 216). There was one incident alone that involved a pack train of 80 mules (The Capt. Velasco Letter, H&R. 1953, pg. 609). Draft mules or Oxen could pull plow or cart. They involve the same rigging equipment. Even taking into account those, that might have been lost, stolen, starved or eaten on the way; there would still have been a lot of animals at the end of the trip.

When this incredible huge group arrived where would they have gone. San Juan de los Caballeros on the east bank of the Rio Grande; or between the two rivers at San Gabriel, Yuque-Yunque province (Exhibit A, pg. 9 Torquemada quote; Exhibit O, pg. 9 [and the enlarged map]-The Wozniak map of Yuque-Yunque Province). Onate and some of the soldiers from the advanced party would remain camped, quartered, and headquartered at San Juan de los Caballeros. At least until the pueblo at San Gabriel was reconstructed enough

to make a viable move across the Rio Grande. (Jenkins, 1987, pg. 63, footnotes, 4, 5, pg. 71).

Now, what about the main party. Captain Alonso Sanchez, interviewed on conditions in the province said, "He marched with the main body of the royal army and reached this pueblo and camp at San Gabriel..." (H&R, 1953, pg. 684). This would have been after the Acequia was dug.

Captain Gregorio Cessar, interview taken at San Gabriel, said, "...having seen the royal standard raised in the City of Mexico, he made ready to serve the King our lord with his wife and children, selling all his property for much less than it was worth. After he arrived at the pueblo of San Gabriel, he always accompanied the governor to the pueblo to explore..." (ibid, pg. 688). Seeing the Royal Standard raised in Mexico City meant the Captain had been with Onate from the very start of the venture to the arrival at San Gabriel. More on captain Bernabe de las Casas: He not only arrived with Onate at San Gabriel in 1598; "He was the head of the companies that came to these provinces with the second reinforcements". (H&R, 1953, pg. 686). "...He was chosen as head of the reinforcements which arrived in the last year of 1600". (ibid, pg. 687). That was that 1600 Christmas eve arrival.

If the Pobladores, equipage and livestock had moved into San Juan de los Caballeros it would have been in violation of so many of the Ordinances of



1573 for doing harm to the Indians. (Exhibit K, at (A)). The smashing destruction of planted fields nearing harvest, and the immediate negative force on the Indian's "successful pattern of living" would have been overwhelming (Ellis, 1989, pg. 9). The Spanish too, had their own "successful pattern of living" (ibid.), five hundred plus people, seven thousand animals, equipage and wheel stock. It just makes a whole lot more sense to move into San Gabriel and a planned agricultural community defined by a new Acequia irrigation system.

The Ordinances of 1573 prescribe the Acequia community that was laid-out for the Pobladores on their arrival. A tally of the planning Ordinances of 1573: numbers, 34, 35, 38, 40, 111, 103, 106, 107, 127, 128, 129, 130, 131, 132; (Exhibit J). The Yuque-Yunque province area between the two rivers provided access to two riverbanks, and a lot of water for drinking and irrigation (Exhibits O; and K at (D), Ord. #s 34, 35). Even the arrangements made by the advanced party with Indians for Yuque-Yunque pueblo to be occupied and modified into the Spanish village of San Gabriel was covered in the Ordinances of 1573 (Exhibits K at (A), number 38; at (D), Ord. # 39).

Gines de Herrera Horta, witness at the Valverde investigation in Mexico City said, "...that he (Onate) had established it (his camp) in one of the Indian pueblos, and that the Spaniards were living in the houses of the natives, except they had built doors and windows in them in the Spanish custom" (H&R,

1953, pgs. 652). F. H. Ellis would confirm this through her archaeological excavations at San Gabriel (Exhibit L; and Ellis, 1989, pgs. 47-64). San Gabriel contained about “four hundred (400) houses which the Spaniards adopted for their living quarters” (H&R, 1953, pg. 639). In this regard, F. H. Ellis remarked that, “...The sixteenth century Yungue was at least two or three stories high.” (Ellis, 1989, pg. 26). Well, if this wouldn’t provide enough shelter for 500 plus people, they brought tents. Ordinances of 1573, number 128 states, “...each of the settlers shall set up his tent on his plot if have he should one. For this purpose the captains should persuade settlers to carry them...” (Exhibit K at (B), Ord. #128, pgs. 3 & 4).

The tents show up in the 1597, San Bartolome Inspection (H&R, 1953, pgs. 230, 237, 243, 246, 249, 251, 252, 257, 273, 274). From the Hammond and Rey translated documents for the itinerary of the expedition, 1596-98: Entry for May 28, 1598, “In order not to frighten them (the Indians) we went to the bank of the river, where we remained living in tents, for a month” (H&R, 1953, pgs. 317-318). The added part to this story supports more Ordinances of 1573. It reads that they traveled and camped for the night across from a pueblo toward the bank of the river. The Indians were “suspicious and excited” and abandoned the pueblo (H&R, 1953, pg. 318). They continue, “We reassured them with gifts of trinkets; and in order not to frighten them, we went to the bank of the river, where we remained...for a month”. (H&R, 1953, pg. 318).

In keeping with the Ordinances of 1573, they would be aware of not freighting the Indians. When they went to the river to camp and did not reside at the pueblo, demonstrates that they were aware of a group of Ordinances of 1573 that instruct the settlers to do no harm to the Indian population (Exhibit K at (A)). In addition to this list of 13 Ordinances; The Ordinances 15-31 say, "...instruct the Spanish on the formal issues of encountering, greeting, teaching, and punishing the native Indian population." Also giving "gifts of trinkets" is part of the instructions granted the Spanish to calm and reassure the native population as shown in Ordinance #139 (Exhibit K at (A)). Just an aside, Onate brought with him articles of barter in keeping with the Ordinances laws (H&R, 1953, pg. 220).

Some more quotes on the use of tents. From Hammond and Rey translated documents for the account given by an Indian: The witness said he saw, "...discord between Captain Leyba and Antonio Gutierrez de Umana. The later remained alone in his tent an entire afternoon and morning, writing..." (H&R, 1953, pgs. 417-418). It should be mentioned that the out come of the "discord" was that Umana stabbed Leyba to death" (ibid.).

Also, Villagra references the use of tents. "Until arriving at the place where, then he placed, to await the Fathers, the main force of the army in its tents. And having waited now some days the escort with all the church, arrived."

(Villagra, 1992, pg. 97, #115- #119). Meal was served, “After all which unto their tents the monks betook themselves.” (ibid, pg. 98, #162 & #163).

These maps are important for context to the discussion that follows, Exhibit O, P, and Q.

Ordinances of 1573, number 35 states, “...and they should be in fertile areas with and abundance of fruits and fields, of good land to plant and harvest, of grasslands to grow livestock, of mountains and forests for wood and building materials for homes and edifices, and good and plentiful water supply for drinking and irrigation” (Exhibit K, at (D), Org. # 35, pg. 1). The settlers really needed a different kind of living space. Domestic livestock and wheat alone require a different kind of geographic use area. The Indians had neither domestic animals, or wheat and kitchen gardens, unless you count wild turkeys in pens for the former.

The ecological setting between the two rivers reported on by Torquemada would suit well the Spanish agricultural needs (Exhibit A, pg. 9). From the time of arrival of the advanced party on July 11, 1598, the Province of Yunque-Yunque was open for the development plan of the Spanish for the capital City of San Francisco de los Espanoles (Exhibit O, pg. 9 and following ‘enlargement map’).

The 1877 McElroy survey map and the National Geographic "Topo" map indicate Onate's 1598 City of San Francisco Acequia or the Acequia de Chamita (Chamita ditch), under discussion. The Acequia course comes off the Rio Chama at its presa, or point of diversion. Then as now, it is approximately at the same point. Then, downstream, the irrigation water flows back into the Rio Chama at its desagüe, or point of drainage back into the river's stream flow (Exhibit P and Q). As Torquemada reported, Onate's Acequia "...Irrigates all the plantings of wheat, and barley and corn, and all the other items that are cultivated in gardens..." (Exhibit A, pg. 9; Exhibit G, pgs. 672 & 678).

For this Acequia, the point of difference between the two maps is noticed at the desagüe area at the bottom of the gravity flow ditch system. On the National Geographic map the desagüe drains water back into the Rio Grande above San Gabriel or the "Old San Juan First Spanish Capital 1598" (Exhibit Q). On the 1877 McElroy Survey Map, though out of scale to actual village, the desagüe drains water back into the Rio Chama (Exhibit P and A at pg. 9). This desagüe change was done in the late 1930's or early 1940's (oral interview with Mayordomo, pro se parciente, Eloy Garcia, Doc. No. 9584). This change is important. Because, the old desagüe went back into the Rio Chama, it completed the course of Onate's 1598, City of San Francisco de los Expanoles Acequia. It went from the Rio Chama back into the Rio Chama.

Ordinances of 1573, number 107 states: “Those who accept settlement (within the Spanish agricultural system) must build in their urban lots and live in their homestead and select the planting cycle of their farmlands and plant them and populate the pastures with cattle...” (Exhibit K at (B), Ord. #107, pg. 1).

Agricultural/Building tools and equipment taken from the San Bartolome inspection of 1597 (H&R, 1953, pgs. 199-308).

Agricultural Tools:

Sickles	30
Plowshares	42
Hoes	24
Chain	3
Collars	9
Carts	668
Cowboy Goad sticks	26

Building/Animal Tools and equipment:

Augers	38
Axes	114
Saws	17
Chisels	34
Adzes	28
Hooked Blades	22
Anvils	4
Tools (general listing)	11
Sledge Hammer	2
Grindstone	6
Box of Knives	2 sets
Hocking Blades	6
Blacksmith Hammer	1
Crowbar	1
Toolkit for shoeing Horses	1
Bellows	7
Hammers	5
Blades for cutting wood	2

Iron file	1
Portable forge	1
Fegenal knives	3
Blower and piper	1
Carpenters block	3
Horseshoes	6098
Horseshoe nails	82360+
Shoes for asses	21
Hoof pares	2
Torregas Blacksmith Hammers	5
Harnesses for mules	27
Short nails	13500
Carrozas	2
Horseshoeing tools	21

Ordinances of 1573, numbers 129 and 130 state in part: “Within the town, a commons shall be delimited ...for recreation and to take their cattle to pasture without them making any damage.” (Exhibit K at (B), Ord. #129, pg. 4).

“Adjoining the commons there shall be assigned pasture ground for the work oxen and for the horses as well as for the cattle for slaughter and for the usual number of cattle that the settlers must have...so they can be admitted to pasture in the public lands...; and the rest (of the adjoining land) shall be assigned as farmlands, which will be distributed by lottery... and if there should be irrigated lands, lots shall be cast for them...” (Exhibit K at (B), Ord. #130, pg. 4).

Now follows a description of the 1598 Spanish village of San Gabriel as it was to be incorporated into the developing Villa and Capital San Francisco de los Espanoles. With the maps as context; the village of San Gabriel was situated near the confluence of the Rio Chama, east bank, and the Rio Grande,

west bank (Exhibits O, P, Q).

The Vega, or the cottonwood lined, bottomland along the banks of the two rivers would have provided pasturage for livestock at any time of the year. This area was between the village and along the rivers, and could have been used as far as was needed. The crescent of pasture above the village and below the desague section of the acequia would have provided the commons area of pasturage for work oxen, horses; and the easement area for access to the commons pasture lands. (Exhibit K at (B), Org. #130, pg. 4, Ordinances of 1573).

The “Commons” usage district was above and surrounding the Acequia and village area. This area, from the crest of the hills, provides the watershed that would feed moisture to the fertile crescent between the two rivers. Canoa or San Juan’s Black Mesa, to the North of the Village, is above the hills, and runs parallel to the Rio Grande. The mesa has a natural knife like point, and drops down, almost perpendicular to the Rio Chama. The top of this Mesa too, would have provided a controlled grazing area for stock (Exhibit K at (B), Ord. #106, pg. 1, #s129 & 130, pg.4; Exhibit K at (D), Ord. #35, pg. 1 and #111, pg. 2).

The second “Commons” usage region would be the area just across the Rio Chama from the San Gabriel agricultural community, just discussed (ibid).



The final commons area would be the Rio Chama watershed provided by the Jemez Mountain Range to its crest line (Exhibit K at (D), Ord. #s 35, pg. 1 & #111, pg. 2). This area would provide wood, fish and wild game for sustenance. The mountains would also provide the volcanic geologic material necessary to make the two grinding stones for the horizontal style Spanish grist mill. This mill would operate from a lateral ditch off the main Acequia run. This would allow regulation of the water flow so that the speed of the grinding stones could be controlled. There is still a flour mill of this type in the Village of Chamita. Onate, writing to his relatives about the 1600 harvest, remarks, "Our wheat has been sown and harvested... A flour mill has already been erected" (H&R, 1953, pg. 619). This, by the way, is the same citation as the one for that Christmas eve arrival of that reinforcement party in 1600. Surely, after the 1599 spring thaw, the Pobladores would have started the first migration of livestock into the mountain pastures. An important part of the year's agricultural cycle.

The last component of the Acequia community of San Gabriel to be discussed is the Acequia itself. While it is the last mentioned here, it is the first unit of the Spanish agricultural plan that was laid out and executed. The acequia's flattened form C on the east bank of the Rio Chama defined the working relationship between all the elements of the village. It was important enough for Onate to be present on August 11, 1598 for the construction of the

Acequia (H&R, 1953, pgs. 322-323). After the main party arrived, the lottery assignments told the settlers were to begin work below the ditch (Exhibit K at (B), Ord. #127, pg. 3 and #130, pg. 4). Lateral ditches would be dug. Farm plots would be plowed to delineate kitchen gardens, orchard areas and fields for wheat, corn and barley (Exhibit K at (B), Ord. #s 104, 105, pg. 1).

The planting cycle for planting was known, and would be modified for the location (Exhibit K at (B), Ord. #107. pg 1). At this time, some root crops like garlic would be planted in the garden plots. The fruit tree seeds would be planted in the orchard areas just after the last frost in spring. However, if there were tree seedlings, they could be planted in September of 1598. The last snows would make strong roots. They would have irrigated a few times before winter set in. It is possible to run water as late as early December. However, irrigation could have been cut off at some point in October. It would be the Acequia Mayordomo's call.

The last watering would allow for some field grass to grow. This would allow some animals to graze the field through winter. Their activity would breakdown some of the turned soil, and would provide some winter fertilization of the soil (ibid). This would set the fields for the all-important planting of spring wheat. It was planted after the first frost at some time February through into March. This would allow for late snows to blanket the seeds and set roots for the coming irrigation season. The first spring sowing and harvest in the fall of 1599 would be the first sight the Indians would have

of this new technology (Ford, 1987, pg. 84; Exhibit K at (A), Ord. #137, pg. 2; see P.O.E. #s 24, 25).

This planting cycle established the first Acequia community agricultural pattern in Nueva Mexico/New Mexico. (H&R, 1953, answers to question #s 13, 14, the Captain Geronimo Marquez interviews, pgs. 701-739; Exhibit K at (B), Ord. #107, pg. 1). At San Gabriel, in 1598, the Spaniards came to stay. They put in place their own, “historically successful pattern of living...” (Ellis, 1989, pg. 9; Exhibit K at (A), Ord. #137, pg. 1).

**Point(s) of Evidence (30): Pobladores (Settlers awarded Title of Hidalgo, July 8, 1602.**

In keeping with the Ordinances of 1573, Don Juan Onate offered the incentive of honors to his settlers for jointing in on the establishment of the new colony. (H&R, 1953, #6, pg. 50; Exhibit J, Ordinances of 1573, #2, pgs. 2, 3; #99, pg. 5).

Onate petitioned King Philip of Spain to award the Title of Hijosdalgo (Hidalgo) to his pobladores. On July 8, 1602, the King granted to, “Those who pledge to establish settlements and have done so, fulfilling the terms of their contract, we name them and their legitimate descendants Hidalgos of Noble Lineage...” (ibid, pg. 974; Exhibit J, #99, pg. 5).

**Point(s) of Evidence (31):** Don Juan Onate awarded Title of Adelantado, February 7, 1602.

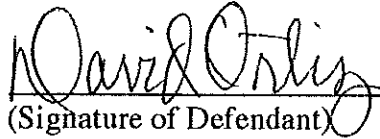
Onate would be honored too, “Because of the good work of Don Juan Onate, and in order to encourage him to continue with his plans, his majesty, our King, Philip...on February 7, 1602, honored him with the Title of Adelantado of these provinces...” (Carroll and Haggard, 1942, pg. 16).

**Point(s) of Evidence (32):** Postscript

In its modern form this agricultural village “life way” can be found in Chamita. The names of some of Onate’s Primeros Pobladores are still carried by their lineal descendants who work the land irrigated by Onates’s 1598 Acequia...today known as the Acequia de Chamita (Doc. 9546, filed December 16, 2009, Levine, Tr. 455-476, pg. 6).

**Conclusion:** The only real objection the Parciente(s) have to the Special Master’s Report on Priorities for Three Acquias is the recommendation by the Special Master for the Court assignment of the 1600 date as the water right priority for the Acequia de Chamita only (Doc. 9546, filed December 16, 2009, VI Recommendation, 2., page 10). On providing this cumulative evidence, and after the honorable Courts consideration; the parciente(s) respectfully motion the Court to change the 1600 priority date in the Special Master’s Report (Doc. 9546, Filed 16, 2009); and adopt the proper assignment of an August 11, 1598 priority date for the Acequia de Chamita only.

**Respectfully submitted.**

  
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